



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID SMITH,

Defendant.

CASE NO. CR 11-00922

ORDER OF DETENTION
AFTER HEARING

(18 U.S.C. § 3142(i))

I.

A. (X) On motion of the Government in a case allegedly involving:

1. () a crime of violence;
2. () an offense with a maximum sentence of life imprisonment or death;
3. (X) a narcotics or controlled substance offense with a maximum sentence of ten or more years;
4. () any felony - where the defendant has been convicted of two or more prior offenses described above;
5. () any felony that is not otherwise a crime of violence that involves a minor victim, or possession or use of a firearm or destructive device or any other dangerous weapon, or a failure to register under 18 U.S.C. § 2250.

1 B. (X) On motion by the Government / () on Court's own motion, in a case allegedly
 2 involving:

3 1. (X) a serious risk that the defendant will flee;

4 2. () a serious risk that the defendant will:

5 a. () obstruct or attempt to obstruct justice;

6 b. () threaten, injure, or intimidate a prospective witness or juror or attempt to
 7 do so.

8 C. The Government (X) is/ () is not entitled to a rebuttable presumption that no
 9 condition or combination of conditions will reasonably assure the defendant's
 10 appearance as required and the safety of any person or the community.

11 II.

12 A. (X) The Court finds that no condition or combination of conditions will reasonably
 13 assure:
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15 1. (X) the appearance of the defendant as required.

16 (X) and/or

17 2. (X) the safety of any person or the community.

18 B. (X) The Court finds that the defendant has not rebutted by any evidence to the
 19 contrary the presumption provided by statute.
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21 III.

22 The Court has considered:

23 A. the nature and circumstances of the offense(s) charged;

24 B. the weight of evidence against the defendant;

25 C. the history and characteristics of the defendant; and

26 D. the nature and seriousness of the danger to any person or to the community.
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IV.

The Court also has considered all the evidence adduced at the hearing and the arguments and/or statements of counsel, and the Pretrial Services Report and recommendation.

V.

The Court bases the foregoing finding(s) on the following:

- A. (X) The history and characteristics of the defendant indicate a serious risk that he will flee, because: the risk of flight is presumed in this case; defendant's criminal record reflects that he has sustained a prior failure to appear and his probation has been previously revoked; and there are insufficient bail resources to mitigate the presumed risk of flight. Further, he is alleged to have used three aliases and four dates of birth.
- B. (X) The defendant poses a risk to the safety of other persons or the community because of: the nature and seriousness of the allegations in this presumption case; and the nature and extent of his prior criminal history, which includes multiple prior felony and misdemeanor convictions.

VI.

- A. () The Court finds that a serious risk exists that the defendant will:
 - 1. () obstruct or attempt to obstruct justice.
 - 2. () attempt to/ () threaten, injure or intimidate a witness or juror.

VII.

- A. IT IS THEREFORE ORDERED that the defendant be detained prior to trial.
- B. IT IS FURTHER ORDERED that the defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

1 C. IT IS FURTHER ORDERED that the defendant be afforded reasonable
2 opportunity for private consultation with counsel.

3 D. IT IS FURTHER ORDERED that, on order of a Court of the United States or on
4 request of any attorney for the Government, the person in charge of the corrections
5 facility in which the defendant is confined deliver the defendant to a United States
6 Marshal for the purpose of an appearance in connection with a court proceeding.
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8 DATED: October 13, 2011

Margaret A. Nagle

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10 MARGARET A. NAGLE
UNITED STATES MAGISTRATE JUDGE
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